IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

Crl.Rev.Pet.No. 676 of 2006(D)

MC.1/2006 of JUDICIAL FIRST CLASS MAGISTRATE, KOTHAMANGALAM.
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REVN. PETITIONER: PETITIONER:

NABEESA, AGED 45 YEARS,
PARAKKAL PUTHENPURA HOUSE, THANGALAM,
THRIKKARIYOOR VILLAGE, KOTHAMANGALAM.

BY ADV. SRI.M.A.ABDUL HAKHIM

RESPONDENTS: COUNTER PETITIONER-STATE:
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1. M.M. MUHAMMED, S/O. MYTHEEN,
MEKKAPPADY, MULAVOOR P.O., MUVATTUPUZHA.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY/

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 09/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. R.P. NO. 676 OF 2006

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Dated this the 9th day of March 2007

O R D E R

The revision petitioner is the petitioner/wife in M.C.No.1/2006 filed under section 3(2) of the Muslim Women (Protection of Rights on Divorce) Act, 1986 (hereinafter to be mentioned as the Act). It is the case of the revision petitioner that as per order in M.C. No.380/1993 the petitioner and the child was provided maintenance at the rate of Rs.700/- and subsequently the same was enhanced to Rs.900/-. Later on 30.10.1998 the respondent/husband divorced the revision petitioner and then she has filed the application under section 3 (2) of the Act. The court below dismissed the application on the ground that she has received certain amounts towards maintenance after filing the petition under section 3(2) of the Act.

2. I find that the revision petitioner is not entitled to claim maintenance under section 125 Cr.P.C., she has been divorced

except as per the conditions envisaged under section 5 of the Act. Just receipt of maintenance allowed ordered under section 125 Cr.P.C will not entitle her to claim the same. The above aspect has not been considered by the court below. In the circumstances, the impugned order is set aside. The court below is directed to reconsider the matter and dispose of the same on merits. The revision petitioner shall appear before Judicial First Class Magistrate, Kothamangalam on **10.04.2007**. The respondent/husband has not entered appearance despite service of notice. The court below shall dispose of the matter at the earliest.

K.R. UDAYABHANU, JUDGE.

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